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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,066	05/14/2001	Andrew W. Walters	14531.100	1967

7590 03/10/2004

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EXAMINER	
KOSTAK, VICTOR R	

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 03/10/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/858,066	WALTERS, ANDREW W.	
	Examiner	Art Unit	
	Victor R. Kostak	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 November 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *20-34* is/are allowed.

6)☒ Claim(s) *1-3,5,10-15 and 19* is/are rejected.

7)☒ Claim(s) *4-6, 8, 9 and 16-18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Claims 2 and 35 are objected to because of the following informalities:

Claim 2 ends with a colon rather than a period.

In the last line of claim 35, "temporal input fields" has ambiguous antecedent basis, whereas "the second temporal input field" recited in the fifth line does.

Appropriate correction is required.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "high quality" and the phrase "relatively little" (in reference to processing resources) recited in the preambles of claims 1, 10 and 12 is a relative term which renders the claim indefinite. The term "high quality" and the phrase "relatively little" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. What one skilled artisan considers a "high quality" progressive frame may very well not be considered as such by the next or any other skilled artisan. Likewise, what a first skilled artisan considers "relatively little" processing may not be considered little by another.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-3, 5, 7,10-15, 19 and 35-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2, and 3 or 5 of U.S. Patent No. 6,459,454.

Addressing the claims individually, although the conflicting claims are not identical, pending claim 1 (apart form the relative language recited in the preamble, which is not substantive) is not patentably distinct from patented claims 1 and 2 other because it would have been obvious to provide a computer with access to interlaced video since it is well known to provide imagery presented in different formats on a computer (as by downloading imagery from a network), moreover because televisions typically have computer-type processors as internal components. Regarding the vertical correlation, such is recited in patented claim 2.

Pending new claim 36 is also rejected for the same reason pending claim 1 is, because it recites less (namely recitation in the preamble).

Addressing pending claim 2, it would have been obvious to continue the correlation estimation in order to convert the entire image (rather than a single pixel, which would not present a noticeable difference).

As for pending claim 3, the subject matter recited therein is covered by patented claim 1.

Regarding pending claim 7, the subject matter recited therein is also covered by patented claim 2.

Pending claim 10 is substantially similar to pending claim 1, which is therefore rejected for the same reason.

Addressing claim 11, it too contains language recited in claim 1 and is therefore rejected for the same reason.

As for pending claim 12, it would have been obvious to carry out the interpolation by a processor that operates by executing instructions from a medium, which is the way typical computers work, and using a computer to operate on and ultimately present video data in interlaced (or progressive) formats would have been obvious for the reason given regarding pending claim 1.

Addressing pending claim 13, it would also have been readily obvious to have the computer-readable medium as a physical storage medium, thereby enabling removability.

As for pending claim 14, it would have been obvious to carry out the correlation estimation for all pixels in order to consistently convert the entire image, so carried out by executing instructions from the medium by the processor.

Regarding pending claim 15, the subject matter recited therein is covered by patented claim 1.

As for pending claim 19, the subject matter recited therein is covered by patented claim 2.

Addressing pending claim 35, it is not patentably distinct from patented claim 3 or 5 because, as explained above, it would have been obvious to provide a computer with access to

interlaced video since it is well known to provide imagery presented in different formats on a computer (as by downloading imagery from a network), moreover because televisions typically have computer-type processors as internal components. (In this case, three fields for forming two fields is recited and covered by claim 3 or 5).

As for pending claim 37, it would have been obvious to provide a computer with access to interlaced video since it is well known to provide imagery presented in different formats on a computer (as by downloading imagery from a network), moreover because televisions typically have computer-type processors as internal components, as explained previously. (In this case, three fields for forming two fields is recited and covered by claim 3 or 5).

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Claims 4, 6, 8, 9, 16-18 and 20-34 appear allowable over the prior art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.

Victor R. Kostak
Primary Examiner
Art Unit 2614

VRK